

UNITED STATES—MARITIME CASES—LAW STUDENTS' DEPARTMENT.

court should misjudge this question, and hold that by the law of Ohio the libellant had no lien at all upon the vessel, or should deny his petition for payment from the remnants in court, the sale would not thereby be invalidated, or the vessel remain subject to arrest in this country. This was the precise question decided in *Castrique v. Imrie*, L. R. 4 H. L. C. 427. That was an action of trover by the assignee of a mortgagee for the conversion of the ship *Ann Martin*. Defendant claimed title as purchaser at a judicial sale in France. The question arose whether the proceedings in the civil tribunal were *in personam* or *in rem*. It was held that the sale ordered was not of the interest of the owner in the ship, as upon execution, but of the ship itself; and that such sale divested the title of the plaintiff, although he had set up his mortgage in the French court, and that court had disallowed it, under a misapprehension of his rights under the English law. In delivering the opinion of the court of Exchequer Chamber, on appeal from the Common Pleas, Mr. Justice Blackburn remarked: "We think the inquiry is, first, whether the subject matter was so situated as to be within the lawful control of the state under authority of which the court exists; and, secondly, whether the sovereign authority of that state has conferred on the court power to decide as to the disposition of the thing, and the court has acted within its jurisdiction." The judgment of the Exchequer Chamber was affirmed by the House of Lords, their lordships holding that the error of the French court in construing the law of England did not render its judgment void in a foreign country, although it would have been otherwise in a case of fraud, and that they were bound to give it effect, at least so far as to sustain the validity of the sale.

The fact that the vessel in this case was sold for the small sum of \$1,000 is due to a multiplicity of causes, amongst others to the uncertainty of the law, but in the absence of fraud it cannot be considered an element in the decision of the case. I am clearly of the opinion that the sale was valid and vested a complete title to the property in the purchaser. The libel must be dismissed.

As the cases of the *Kate Moffatt* and *Gladia-tor* differ from this only in the fact that libellants' claims were rejected upon the ground

that the Maritime Court had no authority to enforce liens which accrued before the passage of the Act creating the court, a like disposition will be made of them.

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EXAMINATION QUESTIONS.

(Continued.)

5. Define and distinguish *bottomry* and *respondentia*.
6. Under what circumstances can a corporation be bound by a contract not under seal?
7. What is implied in the sale of the goodwill of a business? What are the rights of the vendor and purchaser respectively?
8. To what extent is a person intrusted with the possession of goods to be deemed by statute to be the owner thereof?
9. What are the rules as to the appropriation of money paid by a debtor to his creditor, where there are several debts?
10. In what cases will the breach of a warranty, given upon a sale of chattels, enable the purchaser to rescind the contract? Apply the law to the sale of a machine with a warranty that it would do certain work in a certain time.

CERTIFICATE OF FITNESS.

Leith's Blackstone—Real Property Statutes.

1. Show clearly the necessity for possession being taken on a conveyance by lease and release, and what kind of possession suffices.
2. Distinguish between corporeal and incorporeal hereditaments as to the mode of their conveyance in former times, and show the termination of the distinction.
3. Give the operative words of a conveyance by which a tenant in tail conveys an estate in fee simple, and that part of the conveyance relating to the protector of the settlement.
4. The wife of a vendor does not join him in the conveyance. At what period will her right to bring an action for dower cease?